

AMENDED IN ASSEMBLY SEPTEMBER 2, 2005

AMENDED IN ASSEMBLY AUGUST 15, 2005

AMENDED IN ASSEMBLY JUNE 27, 2005

AMENDED IN SENATE APRIL 25, 2005

AMENDED IN SENATE APRIL 4, 2005

SENATE BILL

No. 999

Introduced by Senator Machado
(Coauthor: Assembly Member Koretz)

February 22, 2005

An act to amend ~~Sections 39002, 39603, and~~ *Section 40600* of the Health and Safety Code, relating to air quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 999, as amended, Machado. ~~State Air Resources Board: San Joaquin Valley Unified Air Pollution Control District: district board membership.~~

~~(1) Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law authorizes the state board to appoint advisory groups and committees as it requires.~~

~~This bill would authorize the state board to establish, in a public meeting, an advisory committee to administer processes necessary to interview and screen, and make recommendations to the state board regarding, applicants for appointment to local air districts. The bill would authorize a specified advisory group to make recommendations~~

~~to the state board regarding applicants for appointment to local air districts. The bill would also state the intent of the Legislature that the state board have the authority to appoint a representative to the governing board of an air pollution control district or air quality management district.~~

~~(2)~~

(1) Existing law establishes the San Joaquin Valley Unified Air Pollution Control District formed by the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare, and consisting of the Counties of Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare, and that portion of the County of Kern that is within the San Joaquin Valley Air Basin, as a single integrated agency with all staff under one centralized management structure that is able to implement programs on a basinwide basis. Existing law requires the district to be governed by a district board composed of a total of 11 voting members. Of those members, existing law requires 8 members to be appointed by each of the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare. The remaining 3 members are appointed by cities within the territory of the district, based on region and population.

This bill would increase the membership of the district board to 15 members. In addition to the existing 8 county members, the bill would require the appointment of 2 city council members by the cities within the territory of the district, based solely on population. The bill would require 3 other city council members to be appointed to the district board by a majority vote of the City Councils of Fresno, Bakersfield, and Stockton, one member to be appointed by each city council. The bill would require 2 public members to be appointed to the district board by the ~~State Air Resources Board~~ *Governor, with the advice and consent of the Senate*, as prescribed. The bill would require each member to be appointed in accordance with certain requirements, and would prohibit a member from designating an alternate for any purpose or otherwise being represented by another person in his or her capacity as a member of the district board. The bill would require each appointment by a board of supervisors or city council to be considered and acted on at a duly noticed, regularly scheduled hearing of the board of supervisors or city council. The bill would require all members to be residents of the district. Because of the additional

duties this bill would require of the district, the bill would impose a state-mandated local program.

(3)

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 39002 of the Health and Safety Code is~~
2 ~~amended to read:~~

3 ~~39002. (a) Local and regional authorities have the primary~~
4 ~~responsibility for control of air pollution from all sources other~~
5 ~~than vehicular sources. The control of vehicular sources, except~~
6 ~~as otherwise provided in this division, shall be the responsibility~~
7 ~~of the State Air Resources Board. Except as otherwise provided~~
8 ~~in this division, including, but not limited to, Sections 41809,~~
9 ~~41810, and 41904, local and regional authorities may establish~~
10 ~~stricter standards than those set by law or by the state board for~~
11 ~~nonvehicular sources. However, the state board shall, after~~
12 ~~holding public hearings as required in this division, undertake~~
13 ~~control activities in any area wherein it determines that the local~~
14 ~~or regional authority has failed to meet the responsibilities given~~
15 ~~to it by this division or by any other provision of law.~~

16 ~~(b) It is the intent of the Legislature that the state board have~~
17 ~~the authority to appoint a representative to the governing board~~
18 ~~of an air pollution control district or air quality management~~
19 ~~district.~~

20 ~~SEC. 2. Section 39603 of the Health and Safety Code is~~
21 ~~amended to read:~~

22 ~~39603. (a) The state board may do all of the following:~~

23 ~~(1) Contract for technical advisory services and other services~~
24 ~~as may be necessary for the performance of its powers and~~
25 ~~duties.~~

~~(2) Appoint advisory groups and committees as it requires. Members of committees or advisory groups shall receive one hundred dollars (\$100) per day for each day they attend a meeting of the state board or meet pursuant to a request of the state board, plus actual and necessary travel expenses incurred while performing their duties.~~

~~(3) Establish, in a public meeting, an advisory committee to administer processes necessary to interview and screen, and make recommendations to the state board regarding, applicants for appointment to local air districts.~~

~~(b) In appointing advisory groups and committees, the state board may appoint a number of persons qualified in various fields and disciplines. Persons appointed shall be kept informed of the issues before the state board and the work pending before the state board. When the state board desires the advice, in connection with a particular problem or problems, of any person so appointed, the chairperson of the state board may select that person to serve as a member of a working group or committee for the purpose of providing the advice. After the working group or committee has given its advice to the state board, it shall cease to function as a working group or committee. The financial remuneration specified in paragraph (2) of subdivision (a) shall be available to persons only during the time they are serving as members of a working group or committee at the request of the state board.~~

~~(c) The advisory group established pursuant to Section 71114 of the Public Resources Code may make recommendations to the state board regarding applicants for appointment to local air districts.~~

~~(d) It is the intent of the Legislature that the state board have the authority to appoint, during a public meeting, by a majority vote a representative to the governing board of an air pollution control district or air quality management district.~~

~~SEC. 3.—~~

SECTION 1. Section 40600 of the Health and Safety Code is amended to read:

40600. (a) The San Joaquin Valley Unified Air Pollution Control District formed by the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare pursuant to Chapter 3 (commencing with Section 40150), and consisting of

1 the Counties of Fresno, Kings, Madera, Merced, San Joaquin,
2 Stanislaus, and Tulare, and that portion of the County of Kern
3 that is within the San Joaquin Valley Air Basin, is a single
4 integrated agency with all staff under one centralized
5 management structure that is able to implement programs on a
6 basinwide basis, and has all of the following:

7 (1) An individual air pollution control officer who is
8 responsible for the issuance of all permits by the unified district.

9 (2) A single budget for the unified district with resources
10 allocated based on the program needs of the San Joaquin Valley
11 Air Basin.

12 (3) A uniform fee structure.

13 (4) Three hearing boards established pursuant to Section
14 40800. One hearing board shall serve the northern region, one
15 shall serve the central region, and one shall serve the southern
16 region, as defined by the unified district board. Identical policies
17 governing the operation of each hearing board shall be
18 established by the unified district board and shall be binding
19 upon each hearing board.

20 (5) A citizen's advisory committee.

21 (b) Rules and regulations adopted by the San Joaquin Valley
22 Unified Air Pollution Control District are binding on all counties
23 within the unified district. The unified district shall enforce all
24 permits issued by the unified district and all permits issued by the
25 individual county districts prior to formation of the unified
26 district. The unified district shall review, revise, adopt, and
27 implement any air pollution control plans required within the San
28 Joaquin Valley Air Basin by state and federal law.

29 (c) Notwithstanding any other provision of law, the San
30 Joaquin Valley Unified Air Pollution Control District shall be
31 governed by a district board composed of 15 voting members,
32 appointed as follows:

33 (1) Eight members, one of whom shall be appointed by each of
34 the Counties of Fresno, Kern, Kings, Madera, Merced, San
35 Joaquin, Stanislaus, and Tulare. The board of supervisors of each
36 of those counties shall, by majority vote, appoint one of its
37 members to serve as a member of the district governing board.

38 (2) Two city council members appointed by the cities within
39 the territory of the unified district. There shall not be more than
40 one city council member selected from one county. Of the two

1 city council members appointed pursuant to this paragraph, one
2 shall be from a city having a population of less than 40,000, and
3 one shall be from a city having a population of 40,000 or more
4 that is not specifically authorized to appoint a member to the
5 board under this section.

6 (3) The following cities shall appoint, by majority vote, one of
7 their city council members to serve as a member of the district
8 governing board.

9 (A) One appointed by the City Council of Fresno.

10 (B) One appointed by the City Council of Bakersfield.

11 (C) One appointed by the City Council of Stockton.

12 (4) Two public members appointed by the ~~State Air Resources~~
13 ~~Board~~ Governor, with the advice and consent of the Senate, as
14 follows:

15 (A) One public member who is a physician with expertise
16 regarding the health effects of air pollution.

17 (B) One public member who has expertise in environmental
18 engineering, chemistry, meteorology, or a specialist in air
19 pollution control.

20 (5) The terms of office for the members initially appointed
21 pursuant to subparagraphs (A) and (B) of paragraph (4) shall be
22 as follows:

23 (A) For the member appointed pursuant to subparagraph (A)
24 of paragraph (4), the term shall be two years.

25 (B) For the member appointed pursuant to subparagraph (B) of
26 paragraph (4), the term shall be four years.

27 (6) After the initial term of appointment, the terms of office
28 for the members appointed pursuant to subparagraphs (A) and
29 (B) of paragraph (4) shall be four years.

30 (d) Each member shall be appointed on the basis of his or her
31 demonstrated interest and proven ability in the field of air
32 pollution control and their understanding of the needs of the
33 general public in connection with air pollution problems of the
34 San Joaquin Valley Air Basin.

35 (e) Each member shall be appointed on the basis of his or her
36 ability to attend substantially all meetings of the district board, to
37 discharge all duties and responsibilities of a member of the
38 district board on a regular basis, and to participate actively in the
39 affairs of the district. A member shall not designate an alternate

1 for any purpose or otherwise be represented by another person in
2 his or her capacity as a member of the district board.

3 (f) Each appointment by a board of supervisors or city council
4 shall be considered and acted on at a duly noticed, regularly
5 scheduled hearing of the board of supervisors or city council,
6 which shall provide an opportunity for testimony on the
7 qualifications of the candidates for appointment.

8 (g) All members shall be residents of the district.

9 ~~SEC. 4.—~~

10 *SEC. 2.* No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 a local agency or school district has the authority to levy service
13 charges, fees, or assessments sufficient to pay for the program or
14 level of service mandated by this act, within the meaning of
15 Section 17556 of the Government Code.